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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,084	03/02/2004	Todd W. Steigerwald	5867-00800	2937

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EXAMINER

NGUYEN, DONGHAI D

ART UNIT	PAPER NUMBER
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3729

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/791,084

Applicant(s)

STEIGERWALD ET AL.

Examiner

Donghai D. Nguyen

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed April 18, 2007 have been fully considered and entered of record.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-9 and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9 and 24-27 are directed to a method for forming an apparatus, therefore the length of the apparatus must be known or predetermined prior to forming the apparatus; however the apparatus cannot be formed (claims are vague and indefinite) because a carrier frequency of a signal transmitted is unknown therefore the wavelength (c/f) of the transmitted signal is unknown, thus the length of the apparatus is unknown.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3729

5. Claims 1-9, 24 and 26-27 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,411,261 to Lilly.

This rejection is set forth in previous Office Action, dated 1/18/07, Paragraph 7.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9 and 24-27 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Lilly.

This rejection is set forth in previous Office Action, dated 1/18/07, Paragraph 9.

Response to Arguments

8. Applicant's arguments, see "Remarks" page 2, last paragraph, filed April 18, 2007, with respect to the 112 first paragraph rejection have been fully considered and are persuasive. The 112 first paragraph rejection of claims 1-9 and 24-27 has been withdrawn because Applicants stated, "the exact wavelength and the exact apparatus length -- are not critical or essential to the practice of the invention".

9. Applicant's arguments filed April 18, 2007 have been fully considered but they are not persuasive for the following reasons:

a) Applicants' argument regarding "the definiteness of claim languages the 112 second paragraph rejection" (see "Remarks" page 4, last paragraph) has been reviewed and not found to be persuasive because the invention is directed to a method of making or forming an product/apparatus and in order to obtain the product, "apparatus" from manufacture aspect one must known the predetermined or pre-configuration which involves in i.e. in manufacture a product as the apparatus of the instance case the providing of the wavelength as well as the size and shape of the apparatus must be known; however, in this case the length of the apparatus depends on wavelength/frequency of a transmitted signal are unknown. Therefore, the rejection of claims 1-9 and 24-27 under 112 2nd paragraph remains as reason of record.

b) Regarding the 102(b) rejection, Applicants argue "Lily fails to anticipate a method for forming an apparatus in which a length of the apparatus is substantially equal to one-half of a signal transmission wavelength" (see "Remarks" page 6, 2nd paragraph) and "Lily is completely silent about the length of the subsequently formed AMC" and "Lilly specifically states that the components in the figures are not necessarily to scale" (see "Remarks" page 8, 2nd paragraph). The Examiner agrees because in this instant case, refer to the 112 2nd above as well as the transmission wavelength as demonstrated in the marked-up of Fig. 10 provided in previous Office Action which appears to be reasonable and satisfactory define the claimed length of the apparatus versus wavelength.

d) Regarding the 103(a) rejection, Applicants argue "Lily fails to provide teaching, suggestion or motivation for a method of forming an apparatus in which a length of the apparatus is substantially equal to one-half of a signal transmission wavelength" (see "Remarks" page 9, 1st par.). The Examiner disagreed because of the reasons associated with the 112 2nd where "the

Art Unit: 3729

claimed apparatus may be optimized by setting the length equal to approximately one-half of the signal transmission wavelength in a preferred embodiment of the invention" (see "Remarks" page 4, 1st par.) and the exact length of the apparatus versus wavelength is unknown. Therefore, the 103 rejection of claims 1-9 and 24-27 is remained as reasons of record.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donghai D. Nguyen whose telephone number is (571)-272-4566. The examiner can normally be reached on Monday-Friday (9:00-6:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571)-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3729

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DN

June 21, 2007


MINH TRINH
PRIMARY EXAMINER